



Agenda Item Number: _____

BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: September 26, 2006

Department: Zoning, Building and Planning **Staff Contact:** Catherine VerEecke, Program Planner

TITLE: APPEAL: Special Use Permit for a Contractor's Yard and Boat and RV Storage (CSU-50018/CO-60015)

COUNTY PLANNING COMMISSION RECOMMENDATION:

Denial

SUMMARY:

At the August 2, 2006 public hearing, the County Planning Commission voted (5-0; Commissioners Becerra, Montano excused) to recommend denial of the request for a Special Use Permit for a Contractor's Yard and to include Boat & RV Storage on Tract C, Fruitvale Addition, located at 6301 Edith Boulevard NE, zoned R-1 & C-1, containing approximately 5.98 acres. The decision was based on six (6) Findings (See Attachment 1, Notice of Decision).

This request for a Special Use Permit was first submitted in June 2005 when the previous Special Use Permit (CZ-1) was about to expire. In September 2005, while the case was under a deferral, the applicants elected to change their request to C-1 zoning so that the property could have all one zone (CZ-50014). The County Planning Commission recommended denial of the request and the applicants appealed the decision to the Board of County Commissioners. The applicants' agent then requested a remand of the case to the County Planning Commission for re-consideration of the original Special Use Permit, and at the January 24, 2006 Board of County Commissioners voted to remand the request.

At the August 2, 2006 hearing, the CPC considered a revised site plan and justification that attempted to address the concerns that had arisen with the original submittal and at the May 3, 2006 CPC hearing. These had included failure to comply with conditions of approval of the previous Special Use Permit, non-compliance of the proposed site plan with Bernalillo County Zoning Code requirements, and the negative impacts of existing contractor's yards located on the site on adjacent residential properties. At the May 3, 2006 hearing, the CPC instructed the applicants to either remove one of the contractor's yards (a roofing contractor) or mitigate the impact on the adjacent properties (See Attachment 3 – Notice of Decision Letter). However, when the case was heard again in August 2006, the CPC concluded that the applicants had not adequately addressed their instructions or modified their site plan to comply with departmental requirements so that that the contractor's yard use was not appropriate for the subject site (Attachment 6 – Draft County Commission August minutes, pp. 124-168). They therefore voted to deny the request.

The applicants are now appealing the CPC's decision (Attachment 4 – Appeal Application and Justification). In the appeal statement, the agent states that the contractor's yards owners have made efforts to clean up their respective areas, that the proposed site plan does attempt to relocate the contractor's yards away from the residences to the north. There has been neighborhood support for the

request (Attachment 2, pp.58-66). He states ‘the staff presentation and CPC recommendation in this case seem to be based on past alleged problems with the site that are irrelevant to consideration of the existing request.’

Residents from nearby and adjacent to the site continue to be opposed to the proposed Special Use Permit (Attachment 3, pp 94-103, 110-111) They have submitted materials in opposition to the appeal and the appeal statement (Attachment 7, pp. 169-172).

Criteria for Evaluating Zone Map Changes and Special Use Permit Applications

Resolution 116-86 (see Attachment 6) states that the applicant must demonstrate that the existing zoning is inappropriate because:

1. there was an error when the existing zone map was created; or
2. changed neighborhood or community conditions justifies a land use change; or
3. a different land use category is more advantageous to the community, as articulated in the Comprehensive Plan or other County Master Plan, the even though (1) and (2) above do not apply.

ATTACHMENTS:	PAGE
1. County Planning Commission Notice of Decision Letter (August 7, 2006)	3
2. County Planning Commission Information Packet.	5
3. CPC Notice of Decision Letter (May 5, 2006)	112
4. Appeal application and justification.	114
5. Resolution 116-86.	122
6. Draft, County Planning Commission August minutes.	124
7. Letters in opposition to appeal	169
8. Site plan (Commissioners only)	

STAFF ANALYSIS SUMMARY

ZONING, BUILDING & PLANNING DEPARTMENT:

Staff Recommends Denial of Appeal.